

without undue delay. Consistency of State and Federal standards is required by SMCRA.

VI. Procedural Determinations

Executive Order 12866

This rule is exempted from review by the Office of Management and Budget (OMB) under Executive Order 12866 (Regulatory Planning and Review).

Executive Order 12778

The Department of the Interior has conducted the reviews required by section 2 of Executive Order 12778 (Civil Justice Reform) and has determined that, to the extent allowed by law, this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments since each such program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and 30 CFR 730.11, 732.15 and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR Parts 730, 731, and 732 have been met.

National Environmental Policy Act

No environmental impact statement is required for this rule since section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that agency decisions on proposed State regulatory program provisions do not constitute major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C)).

Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

Regulatory Flexibility Act

The Department of the Interior has determined that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal which is the subject of this rule is based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a

significant economic effect upon a substantial number of small entities. Accordingly, this rule will ensure that existing requirements previously promulgated by OSM will be implemented by the State. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulations.

List of Subjects in 30 CFR Part 914

Intergovernmental relations, Surface mining, Underground mining.

Dated: April 13, 1995.

Richard J. Seibel,

Acting Assistant Director, Eastern Support Center.

For the reasons set out in the preamble, Title 30, Chapter VII, Subchapter T of the Code of Federal Regulations is amended as set forth below:

PART 914—INDIANA

1. The authority citation for Part 914 continues to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*

2. In § 914.15, paragraph (jjj) is added to read as follows:

§ 914.15 Approval of regulatory program amendments.

* * * * *

(jjj) Amendment #94-2 to the Indiana program concerning miscellaneous revisions to the Indiana rules as submitted to OSM on August 25, 1994, supplemented on August 30, 1994, and amended on March 20, 1995, is approved effective April 20, 1995.

[FR Doc. 95-9774 Filed 4-19-95; 8:45 am]

BILLING CODE 4310-05-M

30 CFR Part 914

[IN-112-FOR; Amendment 92-7C]

Indiana Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Final rule; approval of amendment.

SUMMARY: OSM is approving, with exceptions, a proposed amendment to the Indiana permanent regulatory program (hereinafter referred to as the Indiana program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The amendment is a continuation of an earlier program amendment and consists of revisions to Indiana's Surface Coal Mining and

Reclamation Rules concerning the control of subsidence caused by underground mining operations. The amendment is intended to revise the Indiana program to be consistent with SMCRA and to incorporate State initiatives.

EFFECTIVE DATE: April 20, 1995.

FOR FURTHER INFORMATION CONTACT:

Mr. Roger W. Calhoun, Director, Indianapolis Field Office, Office of Surface Mining Reclamation and Enforcement, Minton-Capehart Federal Building, 575 North Pennsylvania Street, Room 301, Indianapolis, IN 46204, Telephone (317) 226-6166.

SUPPLEMENTARY INFORMATION:

- I. Background on the Indiana Program.
- II. Submission of the Amendment.
- III. Director's Findings.
- IV. Summary and Disposition of Comments.
- V. Director's Decision.
- VI. Procedural Determinations.

I. Background on the Indiana Program

On July 29, 1982, the Indiana program was made effective by the conditional approval of the Secretary of the Interior. Information pertinent to the general background on the Indiana program, including the Secretary's findings, the disposition of comments, and a detailed explanation of the conditions of approval of the Indiana program can be found in the July 26, 1982 **Federal Register** (47 FR 32107). Subsequent actions concerning the conditions of approval and program amendments are identified at 30 CFR 914.10, 914.15, and 914.16.

II. Submission of the Amendment

By letter dated December 2, 1992 (Administrative Record No. IND-1175), the Indiana Department of Natural Resources (IDNR) submitted a proposed amendment (#92-7) to the Indiana program. Amendment #92-7 proposed changes to the Indiana surface mining rules concerning subsidence liability.

On May 17, 1993, OSM approved, with two exceptions, amendment #92-7 (58 FR 28775). By letter dated March 18, 1994 (Administrative Record Number IND-1340), Indiana submitted to OSM a notice of the final adoption of amendment #92-7 as published in the Indiana Register, Volume 17, Number 6, pages 1086-1089 (March 1, 1994).

The final adopted language of amendment #92-7 differs in some ways from the language approved by OSM on May 17, 1993. Therefore, OSM reopened the public comment period and invited comment on the substantive differences.

OSM announced receipt of the proposed amendment in the April 22, 1994, **Federal Register** (59 FR 19155),

and, in the same notice, opened the public comment period and provided opportunity for a public hearing on the adequacy of the proposed amendment. The comment period closed on May 23, 1994.

III. Director's Findings

Set forth below, pursuant to SMCRA and the Federal regulations at 30 CFR 732.15 and 732.17, are the Director's findings concerning the proposed amendment to the Indiana program. Nonsubstantive word changes and paragraph notation changes also appear in the final adopted version of amendment #92-7. However, only the substantive changes are discussed below.

1. 310 IAC 12-3-87.1 *Subsidence Control Plan*

a. 310 IAC 12-3-87.1(c)(2). In the May 17, 1993, **Federal Register** notice which approved most of Indiana amendment #92-7 concerning subsidence, the Director did not fully approve the proposed language at subsection 87.1(c)(2). The language at subsection 87.1(c)(2) was approved except to the extent the provision defers to State law to correct subsidence related material damage.

On October 24, 1992, SMCRA was amended by the addition of new section 720 concerning subsidence. New section 720 provides that underground coal mining operations shall promptly repair, or compensate for, material damage resulting from subsidence caused to any occupied residential dwelling and structures related thereto, or noncommercial building due to underground coal mining operations. The new SMCRA provision does not provide for deference to State law regarding the repair or compensation for material damage resulting from subsidence due to underground coal mining operations. Therefore, in the May 17, 1993, **Federal Register** notice, the Director found the proposed language at 310 IAC 12-3-87.1(c)(2) less effective than the counterpart Federal regulations at 30 CFR 784.20(b) to the extent that the language affords a lesser degree of protection to occupied residential dwellings, related structures, and noncommercial buildings than SMCRA as revised.

The currently proposed 310 IAC 12-3-87.1(c)(2) provides that the subsidence control plan must contain a map of underground workings which includes all areas where the measures described in subdivisions (4) and (5) will be taken "where appropriate under state law" to correct subsidence related material damage. The quoted language,

"where appropriate under state law" is identical to the language which OSM did not approve in the May 17, 1993, **Federal Register** notice.

In its submittal of this final adopted language, Indiana provided two reasons for its retention of the language quoted above. First, Indiana asserts that the language quoted above is substantially identical to the counterpart Federal regulations at 30 CFR 784.20(b). Second, Indiana asserts that a newly enacted statute, IC 13-4.1-9-2.5, which was included in Senate Enrolled Act No. 408 and signed into Indiana law on March 11, 1994, codifies the October 24, 1992, changes made to Federal SMCRA at section 720. Specifically, Indiana asserts that because Indiana law (IC 13-4.1-9-2.5) requires the correction of material subsidence damage to the same degree as amended SMCRA at section 720, the current regulation's (310 IAC 12-3-87.1(c)(2)(B)(ii)) reference to Indiana law is no longer less effective than the requirements of the Federal program.

In response to Indiana's assertions, the Director notes the following. On March 31, 1995 (60 FR 16722-16751), OSM amended the Federal subsidence regulations at 30 CFR 784 to bring those regulations into conformance with SMCRA at new section 720. Currently, neither SMCRA at section 720 nor 30 CFR 784.20(b) provide for deference to State law regarding the repair or compensation for material damage resulting from subsidence due to underground coal mining operations.

However, Indiana State law at IC 13-4.1-9-2.5 provides a counterpart to SMCRA section 720 from June 30, 1994, on.

On April 4, 1995 (60 FR 16985), the Director published an approval of IC 13-4.1-9-2.5, Indiana's new law concerning subsidence control. In that notice, the Director determined that IC 13-4.1-9-2.5 is substantively identical to and no less stringent than SMCRA at new section 720 with one exception. The Indiana law applies only to damage that occurs after June 30, 1994. SMCRA at section 729(a) provides that underground coal mining operations conducted after the date of enactment of section 720 (October 24, 1992) shall comply with each of the requirements of section 720. Therefore, the Director approved IC 13-4.1-9-2.5 to the extent that the Indiana law meets the requirements of SMCRA section 720(a) from June 30, 1994.

In addition, the Director deferred decision on the enforcement of the provisions of SMCRA section 720(a) during the period from the effective date of SMCRA section 720 (October 24, 1992) to the effective date of IC 13-4.1-

9-2.5 (June 30, 1994). Pursuant to newly promulgated 30 CFR 843.25, OSM intends to publish by July 31, 1995, for each State with a regulatory program, including Indiana, final rule notices concerning the enforcement of the provisions of the Energy Policy Act in those States.

Since, by letter dated March 18, 1994 (Administrative Record IND-1340), Indiana interpreted "state law" as used in 310 IACV 12-3-87.1 to mean the provisions found at IC 13-4.1-9-2.5, the Director finds that this provision is no less effective than 30 CFR 784.20(b) and no less stringent than SMCRA section 720, to the extent that IC 13-4.1-9-2.5 meets the requirements of SMCRA section 720 from June 30, 1994. The Director is deferring decision until July 31, 1995, on the enforcement of the provisions of SMCRA section 720 and 30 CFR 784.20 during the period from the effective date of SMCRA section 720 (October 24, 1992) to the effective date of IC 13-4.1-9-2.5 (June 30, 1994).

b. 310 IAC 12-3-87.1(c)(7). In the second sentence of this subdivision, Indiana is deleting the word "operator" and adding in its place the word "permittee." With this change, the permittee is required to include required information in the permit application. The word "permittee" is the appropriate word to use in this section on permit application requirements. The Director finds the change to be consistent with and no less effective than the Federal regulations at 30 CFR 784.20 concerning subsidence control plan.

2. 310 IAC 12-5-130.1 *Subsidence Control; General Requirements*

In the final adopted language at subsection 130.1(c)(2), language appears which is identical to language which OSM did not approve in the May 17, 1993, **Federal Register** notice. Specifically, the language at subsection 130.1(c)(2) provides for the repair or compensation of damage caused by subsidence "[t]o the extent required under Indiana law." In the May 17, 1993 notice at Finding 2, OSM did not approve the language which reads "[t]o the extent required under Indiana law."

OSM did not approve the Indiana deference to State law because it afforded a lesser degree of protection to occupied residential dwellings, related structures, and noncommercial buildings than section 720 of SMCRA. See Finding 1, above, for a discussion of section 720 of SMCRA.

In its submittal of this final adopted language, Indiana provided an explanation why the language which defers to State law was retained. Indiana

stated (also see Finding 1, above) that new Indiana law IC 13-4.1-9-2.5 requires the correction of material subsidence damage to the same degree as SMCRA at section 720. Therefore, Indiana asserts, the language at 310 IAC 12-5-130.1(c)(2) which defers to State law is no longer less effective than the requirements of the Federal program.

As discussed in Finding 1 above, the new Indiana law at IC 13-4.1-9-2.5 is substantially identical to and no less stringent than SMCRA at section 720 except to the extent that the Indiana law applies only to damage that occurs after June 30, 1994. SMCRA at section 720(a) provides for such repair or compensation by underground coal mining operations conducted after the date of enactment of section 720 (October 24, 1992). Since, by letter dated March 18, 1994 (Administrative Record No. IND-1340), Indiana interpreted "state law" as used in 310 IAC 12-5-130.1(c)(2), to mean the provisions found at IC 13-4.1-9-2.5, the Director finds that this provision is no less effective than 30 CFR 817.121(a)(2) and no less stringent than SMCRA section 720, to the extent that IC 13-4.1-9-2.5 meets the requirements of SMCRA section 720 from June 30, 1994. The Director is deferring decision on the enforcement of the provisions of SMCRA section 720 and 30 CFR 817.121 during the period from the effective date of SMCRA section 720 (October 24, 1992) to the effective date of IC 13-4.1-9-2.5 (June 30, 1994).

3. 310 IAC 12-5-130.1(g) *Suspension of Underground Mining*

Indiana added language to this provision after the provision was approved by OSM on May 17, 1993. At subdivision 130.1(g)(2) the words "under or" are added. With the added language, the provision provides that the director of INDR shall suspend underground mining activities under or adjacent to industrial or commercial buildings, pipelines, major impoundments, or perennial streams.

In addition, the words "under any other location" are added in new subdivision 130.1(g)(3). With this new language, the director of INDR shall suspend underground mining activities under any other location if imminent danger is found to inhabitants of urbanized areas, cities, towns, or communities "or whenever required or authorized by IC 13-4.1-11-5."

The quoted language immediately above identifies the third revision to subsection 130.1(g). With this new language, the director of INDR shall also suspend underground mining activities whenever required or authorized by IC

13-4.1-11-5 concerning cessation orders. The Director finds that these changes are consistent with and no less effective than the Federal regulations at 30 CFR 817.121(f).

4. 310 IAC 12-5-130.1(h) *Detailed Report of Underground Workings*

The changes in this subsection are related to the preparation and certification of the required map of underground workings. Specifically, Indiana has deleted the word "registered" immediately preceding the words "professional engineer." Also, the words "or registered land surveyor" are added following the words "professional engineer." With these changes, the required map of underground workings shall be prepared by, or under the direction of, and certified by a qualified professional engineer or registered land surveyor with assistance from experts in related fields such as land surveying. The Director finds that the amendments are not inconsistent with and are no less effective than the counterpart Federal regulations at 30 CFR 817.121(g) which provide that the operator shall submit a detailed plan of the underground workings.

5. *Repealed Provisions*

Indiana proposes to repeal 310 IAC 12-3-87, 310 IAC 12-5-130, 310 IAC 12-5-131, and IAC 12-5-132. The provisions are proposed for repeal because they are replaced by 310 IAC 12-3-87.1, 310 IAC 12-5-130.1, and 10 IAC 12-5-131.1.

The Director is approving the repeal of 310 IAC 12-3-87, 310 IAC 12-5-130, and 310 IAC 12-5-131 because such repeal does not render the Indiana program less effective than the Federal regulations. The director is deferring decision on the repeal of 310 IAC 12-5-132 until July 31, 1995, when OSM will address the enforcement of the provisions of SMCRA section 720 and 30 CFR 784.20 during the period from the effective date of SMCRA section 720 (October 24, 1992) to the effective date of IC 13-4.1-9-2.5 (June 30, 1994).

IV. Summary and Disposition of Comments

Federal Agency Comments

Pursuant to section 503(b) of SMCRA and 30 CFR 732.17(h)(11)(i), comments were solicited from various interested Federal agencies. The U.S. Department of Agriculture, Soil Conservation Service (SCS) commented on the amendment (Administrative Record Number IND-1345). The SCS stated that the SCS determined that the changes

will not impact SCS programs differently from the existing rules.

Public Comments

The public comment period and opportunity to request a public hearing was announced in the April 22, 1994, **Federal Register** (59 FR 19155). The comment period closed on May 23, 1994. No one requested an opportunity to testify at the scheduled public hearing so no hearing was held.

Ms. Freida K. Harris commented that OSM should not approve the proposed amendments because the amendments contain language which OSM has previously not approved. Specifically, the commenter is referring to Indiana's deference to State law at 310 IAC 12-3-87.1(c)(2)(B)(ii) and 310 IAC 12-5-130.1(c)(2).

As discussed above in Findings 1 and 2, the Director did not fully approve the previously-proposed language at 310 IAC 12-3-87.1(c)(2) and 310 IAC 12-5-130.1(c)(2) to the extent that the proposed language deferred to State law to correct subsidence related material damage. Since the time of that final rule notice, however, Indiana amended its statutes by adding IC 13-4.1-9-2.5 as a counterpart to the new SMCRA provision at section 720 concerning subsidence liability. Upon review of Indiana's new subsidence statute, the Director determined that the subsidence statute is no less stringent than SMCRA at section 720 to the extent that Indiana's statute meets the requirements of SMCRA section 720 from June 30, 1994. As discussed in Findings 1 and 2 above, the Director is deferring, until July 31, 1995, decision concerning the enforcement of the provisions of the Energy Policy Act in Indiana during the period from the effective date of SMCRA section 720 (October 24, 1992) to the effective date of IC 13-4.1-9-2.5 (June 30, 1994). In the March 31, 1995, approval of the Federal subsidence regulations (60 FR 16722-16751) OSM stated that it will publish proposed notices and open public comment periods to seek comment on information submitted by States with approved regulatory programs, including Indiana, concerning enforcement of the Energy Policy Act provisions in those States. The public comment period for Indiana closes on May 8, 1995.

Mr. R. Gehres commented on the proposed changes at 310 IAC 12-5-130.1(h). Specifically, the commenter objected to the removal of the term "registered" as it appeared before the words "professional engineer," and to the addition of a "registered land surveyor" to the language describing who must prepare the required maps of

underground workings. In response, the Director notes that the counterpart Federal regulations at 30 CFR 817.121(g), while requiring the submittal of a detailed plan of the underground workings do not specify the credentials of individuals who may prepare those plans. Therefore, Indiana's amendments at 310 IAC 12-5-130.1(h) do not render the Indiana language less effective than 30 CFR 817.121(g).

Amoco Pipeline Company and Tennico Gas, Inc., pipeline operators, commented that the proposed amendments provide inadequate protection to pipelines from unplanned subsidence. The proposed wording is unnecessarily restrictive without justification the commenter stated.

In response, the Director notes that the proposed Indiana language is patterned after the Federal regulations at 30 CFR 817.121 concerning subsidence control, and SMCRA at section 720 concerning repair or compensation of subsidence damage. On March 31, 1995 (60 FR 16722-16751), OSM published subsidence regulations that are intended to implement the new provisions at SMCRA section 720. In that notice, OSM noted that Congress directed OSM to review existing Federal, State, and local laws, as well as common law related to underground coal mine subsidence and natural gas and petroleum pipeline safety. Since that mandated review and report are not finished, OSM believes that it would be premature to revise existing law at this time.

Environmental Protection Agency (EPA)

Under 30 CFR 732.17(h)(11)(ii), the director is required to obtain the written concurrence of the Administrator of the EPA with respect to any provisions of a State program amendment that relate to air or water quality standards promulgated under the authority of the Clean Water Act (33 U.S.C. 1251 *et seq.*) or the Clean Air Act (42 U.S.C. 7401 *et seq.*). The Director has determined that this amendment contains no provisions in these categories and that EPA's concurrence is not required.

Pursuant to 732.17(h)(11)(i), OSM solicited comments on the proposed amendment from EPA (Administrative Record No. IND-1221). EPA responded by letter dated June 21, 1994 (Administrative Record Number IND-1373). In that letter, the EPA concurred without comment.

V. Director's Decision

Based on the findings above, the Director is approving, except as noted below, Indiana's program amendment

concerning subsidence as submitted by Indiana on March 18, 1994. As discussed above in Finding 1 concerning 310 IAC 12-3-87.1(c)(2) and Finding 2 Concerning 310 IAC 12-5-130.1(c)(2), the Director is approving the propose deference to State law to the extent that IC 13-4.1-9-2.5 meets the requirements of SMCRA section 720 from June 30, 1994. The Director is deferring decision on the enforcement of the provisions of SMCRA section 720 during the period from the effective date of SMCRA section 720 (October 24, 1992) to the effective date of IC 13-4.1-9-2.5 (June 30, 1994). As discussed in Finding 5, the Director is deferring decision on the repeal of 310 IAC 12-5-132.

The Federal regulations at 30 CFR Part 914 codifying decisions concerning the Indiana program are being amended to implement this decision. This final rule is being made effective immediately to expedite the State program amendment process and to encourage States to bring their programs into conformity with the Federal standards without undue delay. Consistency of State and Federal standards is required by SMCRA.

Effect of Director's Decision

Section 503 of SMCRA provides that a State may not exercise jurisdiction under SMCRA unless the State program is approved by the Secretary. Similarly, 30 CFR 732.17(a) requires that any alteration of an approved State program be submitted to OSM for review as a program amendment. Thus, any changes to the State program are not enforceable until approved by OSM. The Federal regulations at 30 CFR 732.17(g) prohibit any unilateral changes to approved State programs. In his oversight of the Indiana program, the Director will recognize only the statutes, regulations and other materials approved by him, together with any consistent implementing policies, directives and other materials, and will require the enforcement by Indiana of only such provisions.

VI. Procedural Determinations

Executive Order 12866

This rule is exempted from review by the Office of Management and Budget (OMB) under Executive Order 12866 (Regulatory Planning and Review).

Executive Order 12778

The Department of the Interior has conducted the reviews required by section 2 of Executive Order 12778 (Civil Justice Reform) and has determined that, to the extent allowed by law, this rule meets the applicable

standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments since each such program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and 30 CFR 730.11, 732.15 and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR Parts 730, 731, and 732 have been met.

National Environmental Policy Act

No environmental impact statement is required for this rule since section 702(d) of SMCRA [30 U.S.C. 1292(d)] provides that agency decisions on proposed State regulatory program provisions do not constitute major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C)).

Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

Regulatory Flexibility Act

The Department of the Interior has determined that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal which is the subject of this rule is based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. Accordingly, this rule will ensure that existing requirements previously promulgated by OSM will be implemented by the State. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulations.

List of Subjects in 30 CFR Part 914

Intergovernmental relations, Surface mining, Underground mining.

Dated: April 14, 1995.

Tim L. Dieringer,

Acting Assistant Director, Eastern Support Center.

For the reasons set out in the preamble, Title 30, Chapter VII, Subchapter T of the Code of Federal Regulations is amended as set forth below:

PART 914—INDIANA

1. The authority citation for Part 914 continues to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*

2. In §914.15, paragraph (iii) is added to read as follows:

§ 914.15 Approval of regulatory program amendments.

* * * * *

(iii) The following amendment to the Indiana program concerning underground mine subsidence as submitted to OSM on March 18, 1994, is approved, except as noted herein, effective April 20, 1995: 310 IAC 12-3-87.1(c)(2) concerning subsidence control plan, to the extent that IC 13-4.1-9-2.5 meets the requirements of SMCRA section 720 from June 30, 1994. The Director is deferring decision on the enforcement of the provisions of SMCRA section 720 during the period from the effective date of SMCRA section 720 (October 24, 1992) to the effective date of IC 13-4.1-9-2.5 (June 30, 1994); 310 IAC 12-3-87.1(c)(7) concerning subsidence control plan; 310 IAC 12-5-130.1(c)(2) concerning subsidence control plan, general requirements, to the extent that IC 13-4.1-9-2.5 meets the requirements of SMCRA section 720 from June 30, 1994. The Director is deferring decision on the enforcement of the provisions of SMCRA section 720 during the period from the effective date of SMCRA section 720 (October 24, 1992) to the effective date of IC 13-4.1-9-2.5 (June 30, 1994); 310 IAC 12-5-130.1(g) concerning suspension of underground mining; 310 IAC 12-5-130.1(h) concerning detailed report of underground workings; the repeal of 310 IAC 12-3-87, 310 IAC 12-5-130, and 310 IAC 12-5-131; decision on the repeal of 310 IAC 12-5-132 is deferred.

[FR Doc. 95-9775 Filed 4-19-95; 8:45 am]

BILLING CODE 4310-05-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA 144-3-6972b; FRL-5194-2]

Approval and Promulgation of Implementation Plans; California State Implementation Plan Revision; Interim Final Determination That State has Corrected Deficiencies

AGENCY: Environmental Protection Agency (EPA).

ACTION: Interim final determination.

SUMMARY: Elsewhere in today's **Federal Register** EPA has published a proposed rulemaking fully approving revisions to the California State Implementation Plan. The revisions concern South Coast Air Quality Management District Rule 1164—Semiconductor Manufacturing. The proposed rulemaking provides the public with an opportunity to comment on EPA's action approving Rule 1164. Based on the proposed approval, EPA is making an interim final determination by this action that the State has corrected the deficiencies for which a sanctions clock was activated on September 29, 1993. This action will defer the application of the offset sanction and defer the application of the highway sanction. Although this action is effective upon publication, EPA will take comment. If comments are received on EPA's proposed approval and this interim final action, EPA will publish a final notice taking into consideration any comments received.

DATES: This interim final determination is effective on April 20, 1995.

Comments must be received by May 22, 1995.

ADDRESSES: Comments should be sent to: Daniel A. Meer, Rulemaking Section (A-5-3), Air and Toxics Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105.

The state submittal and EPA's analysis for that submittal, which are the basis for this action, are available for public review at the above address and at the following locations:

Environmental Protection Agency, Air Docket 6102, 401 "M" Street, S.W., Washington 20460.

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 2020 "L" Street, Sacramento, CA 95814.

South Coast Air Quality Management District, 21865 E. Copley Drive, Diamond Bar, CA 91765-4182.

FOR FURTHER INFORMATION CONTACT:

Helen Liu, Rulemaking Section (A-5-3),

Air and Toxics Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105. Telephone: (415) 744-1199.

SUPPLEMENTARY INFORMATION:

I. Background

On May 13, 1991, the State submitted South Coast Air Quality Management (SCAQMD) Rule 1164—Semiconductor Manufacturing, for which EPA published a limited disapproval in the **Federal Register** on September 29, 1993 [58 FR 50850]. EPA's limited disapproval action started an 18-month clock for the application of one sanction (followed by a second sanction 6 months later) under section 179 of the Clean Air Act (CAA) and a 24-month clock for promulgation of a Federal Implementation Plan (FIP) under section 110(c) of the CAA. The State subsequently submitted a revised rule on February 24, 1995. The revised rule was adopted by the SCAQMD on January 13, 1995. In the Proposed Rules section of today's **Federal Register**, EPA has proposed full approval of the State's submittal of SCAQMD Rule 1164—Semiconductor Manufacturing.

Based on the proposed approval set forth in today's **Federal Register**, EPA believes that it is more likely than not that the State has corrected the original disapproval deficiencies. Therefore, EPA is taking this final rulemaking action, effective on publication, finding that the State has corrected the deficiency. However, EPA is also providing the public with an opportunity to comment on this final action. If, based on any comments on this action and any comments on EPA's proposed approval of the State's submittal, EPA determines that the State's submittal is not fully approvable and this final action was inappropriate, EPA will either propose or take final action finding that the State has not corrected the original disapproval deficiency. As appropriate, EPA will also issue an interim final determination or a final determination that the deficiency has not been corrected. Until EPA takes such an action, the application of sanctions will continue to be deferred.

This action does not stop the sanctions clock that started for this area on September 29, 1993. However, this action will defer the application of the offsets sanction and will defer the application of the highway sanction. See 59 FR 39832 (Aug. 4, 1994). If EPA's proposal fully approving the State's submittal becomes final, such action will permanently stop the sanctions